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Application No. 10/530,801

REMARKS

Claims 10-21 are pending. By this Amendment, claims 19-21 are amended.

Claims 19-21 have been amended to correct their dependency upon canceled claims. No new matter has been added.

Request for Acknowledgement of Claim of Priority

The present application is a national stage application of PCT/FR03/02988, which claims priority to FR02/12601. Section 12 of the Office Action Summary does not acknowledge Applicant's claim for foreign priority, nor does Section 12(a) indicate whether the priority documents were communicated from the International Bureau, nor does it identify any deficiency in the claim for priority or priority documents. Therefore, Applicant respectfully requests acknowledgement of the claim for priority, as indicated on the Filing Receipt, or identification of any deficiency which may exist such that the deficiency, if any, can be timely remedied.

Amendments to the Specification

The Abstract of the Disclosure was objected to for improper language and format. The abstract has been amended herein. No new matter has been added. Therefore, Applicant respectfully requests withdrawal of the objection to specification.

Claim Rejections – 35 U.S.C. § 112

Dependent claims 19-21 stand rejected under 35 U.S.C. § 112, second paragraph, as failing to comply with the written description requirement. In particular, the Office Action states that the claims lack sufficient antecedent basis, as the original claim each depends from a claim which has been canceled. Claims 19 and 20 have been amended herein to depend from claim 11,

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and claim 21 has been amended herein to depend from claim 15. Therefore, withdrawal of the rejection under 35 U.S.C. §112, second paragraph, is respectfully requested.

Claim Rejections – 35 U.S.C. § 103

Claims 10-15 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Application Publication No. 2001/0044637 to Jacobs et al. (hereinafter "Jacobs") in view of U.S. Patent No. 6,485,496 to Suyker et al. (hereinafter "Suyker") and further in view of U.S. Patent No. 6,682,540 to Sancoff et al. (hereinafter "Sancoff"). Claims 11 and 16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Jacobs in view of Suyker, further in view of Sancoff and further in view of U.S. Application Publication No. 2003/0120338 to Chobotov et al. (hereinafter "Chobotov"). Claims 19 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jacobs in view of Suyker, further in view of Sancoff, further in view of Chobotov and further in view of U.S. Patent No. 6,451,048 to Berg et al. (hereinafter "Berg"). The rejections are respectfully traversed.

According to the specification of the present application as filed, "Due to the fact that the sleeve can expand within a significant range of diameters, ... and because its final state is stable since the sleeve does not retract once the placement balloon has been deflated, the sleeve is effectively squeezed against the intubed portions in question that is both impermeable and firm thanks to the fixation barbs of said intubed portions," as stated in the application as filed at page 6, lines 24-29. The invention of the pending application addresses the problem of how to produce a device for connecting previously intubed ends of a body duct and a prosthesis which does not cause bleeding, ensures an impermeable and firm link, and that may be used over an extended range of body duct diameters. Required operating times are reduced based on the present device and method, resulting in a reduction in mortality risk, as stated in the application as filed at page 6, lines 14-15.

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Applicant respectfully submits that no *prima facie* case of obviousness has been established at least because (1) there is no suggestion or motivation to modify or combine the reference teachings as suggested in the Office Action; and (2) the references when combined fail to teach or suggest all the claim limitations.

Independent claim 10 requires, in combination with the other elements of the claim, a series of fixation barbs having a hemostatic profile comprising a circular base section extending to a trihedral-shaped end portion. Independent claim 17 similarly requires, in part, a sleeve comprising a series of fixation barbs having a hemostatic profile comprising a circular base section extending to a trihedral-shaped end portion.

Applicants respectfully submit that a *prima facie* case of obviousness has not been established at least because the references when combined fail to teach or suggest all the claim limitations. Specifically, none of Jacobs, Suyker, Scancoff, and/or Chobotov, alone or in combination, teach or suggest a series of fixation barbs having a hemostatic profile comprising a circular base section extending to a trihedral-shaped end portion. The Office Action concedes that Jacobs fails to disclose curved barbs and asserts that Suyker discloses barbs of a curved configuration. However, claims 10 or 17 do not recite "curved" barbs, rather fixation barbs having a hemostatic profile comprising a circular base section extending to a trihedral-shaped end portion. None of the cited references teach or suggest this limitation of claims 10 and 17. As noted above, the invention of the pending application addresses the problem of how to produce a device for connecting previously intubed ends of a body duct and a prosthesis which does not cause bleeding, ensures an impermeable and firm link, and that may be used over an extended range of body duct diameters. Required operating times are reduced based on the present device and method, resulting in a reduction in mortality risk, as stated in the application as filed at page 6, lines 14-15.

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In addition, Applicant respectfully submits that a *prima facie* case of obviousness has not been established because there is no suggestion or motivation to modify or combine the reference teachings as suggested in the Office Action. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. MPEP § 2143.01(II) (citing *In re Mills*, 916 F.2d 680 (Fed. Cir. 1990)). Applicant respectfully submits that the cited references do not include suggestions or motivation to combine as suggested in the Office Action, nor do they suggest the desirability of the suggested combinations.

Therefore, Applicant respectfully submits that claims 10 and 17 are allowable. Claims 11-16 and 19-21 ultimately depend from claim 10 and are therefore also now allowable. The rejections of claims 11-16 and 19-21 are traversed but not expressly argued herein in view of the allowability of the underlying base claim.

Claim 18 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,941,908 to Goldsteen et al. in view of Jacobs, further in view of Sancoff. This rejection is respectfully traversed.

Claim 18 recites, in part, intubing a first end of the prosthesis, setting in place a first connecting device by introducing an inflatable balloon catheter into the prosthesis through an end of the prosthesis, intubing a second end of the prosthesis in a second body duct, and setting in place a second connecting device by the catheter introduced into the prosthesis through an orifice in the prosthesis that is subsequently re-closed. The connecting devices comprise a mesh sleeve capable of radial expansion between a stable minimal-diameter configuration to a stable final after-expansion configuration, and a plurality of fixation barbs on each end of the sleeve. Goldsteen, Jacobs, and Sancoff, independently or in combination, do not teach or suggest the steps of the claimed method for setting in place connecting devices adapted for end to end anastomosis of at least two body ducts through in intermediary prosthesis having extremities

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intubed in end portions of the ducts. More particularly, the references do not teach or suggest at least the steps of intubing a first end of the prosthesis in an extremity of a first body duct; setting in place a first connecting device by introducing an inflatable balloon catheter into the prosthesis through an end of the prosthesis, and then intubing a second end of the prosthesis in a second body duct. Therefore, claim 18 is allowable.

Reconsideration and withdrawal of the rejection of the pending claims under 35 U.S.C. §103 are respectfully requested.

Conclusion

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,



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